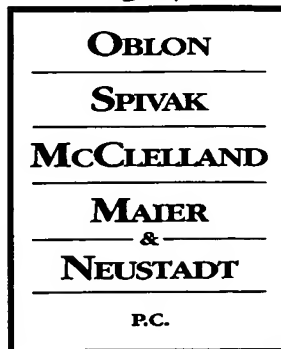




Docket No.: 243740US2

COMMISSIONER FOR PATENTS  
ALEXANDRIA, VIRGINIA 22313



ATTORNEYS AT LAW

RE: Application Serial No.: 10/682,117  
Applicants: Keiichi TESHIROGI  
Filing Date: October 10, 2003  
For: A BASE STATION, A COMMUNICATION SYSTEM,  
AND A BASE STATION CONTROL APPARATUS  
Group Art Unit: 2617  
Examiner: DESIR, P. L.

SIR:

Attached hereto for filing are the following papers:

#### PROVISIONAL ELECTION

Our check in the amount of - is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.

Eckhard H. Kuesters  
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Remus F. Fetea, Ph.D.  
Limited Recognition No. L0037



DOCKET NO: 243740US2

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :  
KEIICHI TESHIROGI : EXAMINER: DESIR, P. L.  
SERIAL NO: 10/682,117 :  
FILED: OCTOBER 10, 2003 : GROUP ART UNIT: 2617  
FOR: A BASE STATION, A :  
COMMUNICATION SYSTEM, AND  
A BASE STATION CONTROL  
APPARATUS

PROVISIONAL ELECTION

COMMISSIONER FOR PATENTS  
ALEXANDRIA, VIRGINIA 22313

SIR:

In response to the Office Action dated April 17, 2006, Applicant provisionally elects, with traverse, Group I, Claims 1-16 for further examination on the merits in the present application.

Applicant respectfully traverses the Restriction Requirement because the PTO has not carried forward its burden of proof to establish that searching and examining the noted sets of claims would be an undue burden.

In particular, MPEP § 803 states:

If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

The claims of the present invention would appear to be part of an overlapping search area.<sup>1</sup>

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<sup>1</sup> To do justice to either identified groups of claims, it is respectfully submitted that it would be necessary to search in all classes and subclasses identified in item 2 at page 2 of the outstanding Office Action.

Accordingly, Applicant respectfully traverses the outstanding Restriction Requirement on the grounds that a search and examination of the entire application would not place a *serious* burden on the Examiner.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.



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